

Amendment No. 1 to SB1832

Bailey
Signature of Sponsor

AMEND Senate Bill No. 1832

House Bill No. 1664*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b)(8), is amended by deleting the subdivision and substituting:

(8) Disparaging the goods, services, or business of another by false or misleading representations of fact, including, but not limited to, posting a review on the internet about a business that is factually false;

SECTION 2. Tennessee Code Annotated, Section 47-18-109(a)(3) and (4), are amended by deleting the subdivisions and substituting:

(3)

(A) Except as provided in subdivision (a)(3)(B), if the court finds that the use or employment of the unfair or deceptive act or practice was a willful or knowing violation of this part, then the court may award three (3) times the actual damages sustained and may provide other relief as the court considers necessary and proper; provided, the court shall not award exemplary or punitive damages for the same unfair or deceptive practice.

(B) If the court finds that the use or employment of the unfair or deceptive act or practice described in § 47-18-104(b)(8) was a willful or knowing violation, then the court shall award three (3) times the actual damages sustained and may provide other relief as the court considers necessary and proper; provided, the court shall not award exemplary or punitive damages for the same unfair or deceptive practice.

(4) In determining whether treble damages should be awarded pursuant to subdivision (a)(3)(A), the trial court may consider, among other things:

(A) The competence of the consumer or other person;

(B) The nature of the deception or coercion practiced upon the consumer or other person;

(C) The damage to the consumer or other person; and

(D) The good faith of the person found to have violated this part.

SECTION 3. Tennessee Code Annotated, Section 47-18-109(e)(1), is amended by deleting the subdivision and substituting:

(A) Except as provided in subdivision (e)(1)(B), if a court finds that this part has been violated, then the court may award to the person bringing the action reasonable attorney's fees and costs.

(B) If a court finds that § 47-18-104(b)(8) has been violated, then the court shall award to the person bringing the action reasonable attorney's fees and costs.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.